

**REMARKS**

Claims 4-12 are pending in the present application.

**For the purpose of examination of the present application, Applicants elect, with traverse, Group I, Claims 4 and 5, drawn to a compound represented by formula (I'). With respect the election of species requirement, Applicants elect 1-benzyl-2,4,6-tribromomelatonin which is disclosed in Example 3 and encompassed by claims 4 and 5.**

**The present response does not require any amendment to the inventorship.**

The Examiner states that a composition comprising the indole derivative of formula I, claim 1 is not novel (*See* USP 6,552,064 to Attala, abstract).

In formula (I') of claim 4 of the present application, when X represents a hydrogen atom, at least one of R<sup>3</sup>, R<sup>5</sup> and R<sup>6</sup> represents a chlorine atom. Therefore, the compound of formula (I') of claim 4 does not encompass melatonin (N-acetyl-5-methoxytryptamine). USP 6,552,064 does not disclose any concrete example of biologically active analogue of melatonin (N-acetyl-5-methoxytryptamine).

Accordingly, claim 4 is novel over USP 6,552,064. Thus, Applicants consider Group I, Group II, and claims 7-9 of Group III are so linked as to form a single general inventive concept under PCT Rule 13.1. Reconsideration of the outstanding restriction/election of species requirement is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Monique T. Cole, Registration No. 60,154 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- ☐ Attached is a Petition for Extension of Time.
- ☐ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: August 25, 2008

Respectfully submitted,

By 

MTC Gerald M. Murphy, Jr.

Registration No. 28,977

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant